



2026:DHC:570-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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*Judgment reserved on: 22.12.2025**Judgment delivered on: 23.01.2026*

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W.P.(CRL) 4203/2025

KARAN SINGH

.....Petitioner

versus

STATE NCT OF DELHI

.....Respondent

Memo of Appearance

For the Petitioner:

Mr. Chetan and Ms. Madhu Sharma, Advocates

For the Respondent:

Mr. Sanjay Lao, St. Counsel (Crl.) with Ms. Priyam Agarwal and Mr. Aryan Sachdeva, Advocates

Insp. Gianender Singh and SI Vikram Singh, PS Welcome

CORAM:**HON'BLE MR. JUSTICE VIVEK CHAUDHARY****HON'BLE MR. JUSTICE MANOJ JAIN****JUDGMENT**

1. Present petition has been filed under Articles 226 & 227 of the *Constitution of India* read with Section 528 of *Bharatiya Nagrik Suraksha Sanhita, 2023* whereby petitioner, *inter alia*, prays that his arrest be declared unconstitutional, being in gross violation of Article 21, 22 (1) & Article 14 of the Constitution of India.
2. Petitioner, who was arrested on 07.02.2024 in FIR No. 126/2024 registered at Police Station Welcome under Sections 302/307/34 of Indian Penal Code, 1860, filed an application seeking grant of regular bail before the learned Trial Court. Such application was dismissed on 03.12.2025 and he also assails such order in the present proceedings.
3. However, the primary argument raised before us is that since the

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grounds of arrest were never communicated to the petitioner, till the filing of the chargesheet, in view of the specific pronouncements of the Hon'ble Supreme Court, the arrest is illegal. He relies upon ***Pankaj Bansal v. Union of India*** (2024) 7 SCC 576 (decided on 03.10.2023), ***Prabir Purkayastha v. State (NCT of Delhi)*** (2024) 8 SCC 254 (decided on 15.05.2024), ***Vihaan Kumar v. State of Haryana*** (2025) 5 SCC 799 (decided on 07.02.2025) and ***Mihir Rajesh Shah v. State of Maharashtra*** 2025 SCC OnLine SC 2356 (decided on 06.11.2025).

4. The petitioner also submits that his co-accused Sajjan @ Manish had also moved an application seeking bail before the learned Trial Court and while declaring his arrest as illegal, he was enlarged on bail *vide* order dated 11.11.2025. He, thus, seeks relief on the ground of *parity* as well.

5. Mr. Sanjay Lao, learned Standing Counsel for the State submits that the present petition is completely misconceived. He further contends that writ petition would not lie for grant of bail.

6. We also feel that the questions whether the accused has been falsely implicated or, for that matter, whether invocation of Section 34 IPC was justifiable or not, cannot be pressed here.

7. However, since petitioner has raised a '*question mark*' about legality of his arrest, we have looked into the matter from that limited angle.

8. Article 22(1) of Constitution stipulates that no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest. Such constitutional safeguard was further strengthened by procedural law i.e. Section 50 of CrPC 1973



(now Section 47 of BNSS 2023) which reiterates the same by casting duty upon police officer who is arresting any person (without warrant) to forthwith communicate to arrestee, full particulars of the offence for which he is arrested or other grounds for such arrest. Section 48 of BNSS 2023 further provides that arresting police officer shall forthwith give information regarding such arrest and place, where the arrested person is being held, to any of his relatives, friends or such other persons as may be disclosed or nominated by the arrested person for the purpose of giving such information and also to the designated police officer in the district. It also, *inter alia*, provides requisite vigil over compliance by making it obligatory for the concerned Magistrate to satisfy himself that such requirements have been complied with.

9. There cannot be any qualm with respect the evolution of law on the aspect of furnishing of '*grounds of arrest*'.

10. In ***Pankaj Bansal*** (supra), the question was that of the requirement of written *grounds of arrest* being provided in an arrest under Section 19 of Prevention of Money Laundering Act (PMLA), 2002 and Supreme Court, in order to give true meaning and purpose to the constitutional and the statutory mandate of Section 19(1) PMLA of informing the arrested person of the *grounds of arrest*, held that it would be necessary, henceforth, that a copy of such written *grounds of arrest* is furnished to the arrested person as a matter of course and without exception.

11. In ***Prabir Purkayastha*** (supra), the Apex court, while dealing with a case under Unlawful Activities (Prevention) Act, 1967 (UAPA), reiterated the abovesaid constitutional requirement in context of arrest under said Act also and observed that there was no doubt that any person



arrested for allegation of commission of offences under the provisions of UAPA or for that matter any other offence(s) has a fundamental and a statutory right to be informed about the *grounds of arrest* in writing and a copy of such written *grounds of arrest* have to be furnished to the arrested person as a matter of course and without exception at the earliest.

12. In ***Vihaan Kumar*** (supra), the accused had been arrested for a case of cheating. It was pleaded that *grounds of arrest* were never communicated and moreover the accused was handcuffed and chained, when after arrest, he was hospitalized. Supreme Court, while reiterating that the requirement of informing a person arrested of *grounds of arrest* was mandatory one, supplemented that the mode and method of communication must be such that the object of the constitutional safeguard is achieved. It also held that any infraction thereof would not vitiate the investigation, charge sheet and trial but, at the same time, filing of chargesheet would not validate breach of constitutional mandate provided under Article 22(1), either. It, however, also observed that although there is no requirement to communicate the *grounds of arrest* in writing, what is stated in paragraphs 42 and 43 of the decision in the case of ***Pankaj Bansal*** (supra) were suggestions which merited consideration. It was also observed that, in every case, it may not be practicable to implement what is suggested above, supplementing that if the course, as suggested, is followed, the controversy about the non- compliance will not arise at all.

13. In ***Mihir Rajesh Shah*** (supra), Supreme Court, while reiterating the compliance of abovesaid mandatory requirement, went on to hold



that, in cases where the police is already in possession of documentary material furnishing a cogent basis for the arrest, the written grounds of arrest must be furnished to the arrestee on his arrest.

14. At this juncture, it is apposite to notice the consolidated jurisprudence crystallised by the Supreme Court in ***Mihir Rajesh Shah*** (supra), while taking into consideration all the aforesaid decisions, as under:

“21. After having discussed the constitutional mandate and statutory provisions giving effect to the constitutional mandate in Article 22 of the Constitution of India, let us now consider the jurisprudence developed by this Court with respect to furnishing of grounds of arrest through its decisions.

22. In Pankaj Bansal (supra), this Court while dealing with the issue of furnishing grounds of arrest under Section 19(1) of PMLA has underscored that Article 22(1) of the Constitution mandates that no arrested person shall be detained without being informed of the grounds of such arrest at the earliest opportunity. The manner in which such grounds are to be communicated must be efficacious and substantive which must fulfil the essential objective and mandate of the constitutional provisions. It was further held that there exists no plausible justification as to why a written copy of the grounds of arrest ought not be provided to the arrestee as a standard procedural requirement without any exception.

23. This Court has reached the above conclusion based on the proposition that mere oral communication of such grounds, in the absence of any written document, renders the compliance susceptible to factual disputes which often result into conflicting claims between the arrested person and the investigating agency. This conflict results in jeopardizing the integrity of the arrest process and thereby giving an opportunity to the accused person to claim an immediate release. This situation may be obviated by furnishing the grounds of arrest in writing. Apart from the practical difficulties, furnishing grounds of arrest in writing also results into effective compliance of the mandate provided under Article 22 of the Constitution of India.

24. In Prabir Purkayastha (supra), of which, one of us was a member (B.R. Gavai, J., as he then was), this Court reiterated the



principle laid down in the above judgment, while dealing with offences under UAPA and held that any individual arrested for alleged commission of offences under the UAPA or any other offence for that matter, has both a fundamental and a statutory right to be informed in writing such grounds of arrest. The Court further held that a copy of such written grounds must be furnished to the arrested person at the earliest without any exception observing that the communication provided under Article 22 and Section 50 of CrPC 1973 (now Section 47 of BNSS 2023) is not a mere procedural formality but a vital safeguard with the ultimate objective to enable the arrested person to effectively consult legal aid and be prepared to raise objections in remand hearing and apply for his/her bail. The right to life and personal liberty, safeguarded under Articles 20, 21 and 22 of the Constitution, stands as the paramount fundamental right. Accordingly, infringement of these constitutional protections commands rigorous judicial scrutiny and strict enforcement.

25. It was said that any breach of the constitutional safeguards provided under Article 22 would vitiate the lawfulness of arrest and subsequent remand and entitle the arrested person to be set at liberty.

26. Subsequently, in *Vihaan Kumar* (supra), this Court underscored that a failure to comply with the requirement of informing the grounds of arrest soon after the arrest would render the arrest illegal. The Court referred to the above-mentioned decisions of this Court and observed that although the ideal mode of communication of grounds of arrest is to provide such grounds in writing, there is no such statutory requirement to provide such grounds in writing. The Court noted that it may not be practical to communicate grounds of arrest in writing in every situation, but if such a course is followed, the controversy about non-compliance will not arise at all.

27. It was further observed that to ensure the effective implementation of the constitutional mandate in Article 22, the law further requires such grounds to be effectively communicated not only to the detainee/arrestee but also to their friends, relatives or any other nominated person as envisaged in Section 50A of CrPC 1973 (now Section 48 of BNSS 2023). The legislative intent behind the incorporation of Section 50A of CrPC 1973 is to ensure that those in a position to act, i.e. secure legal representation, initiate the process for bail, are empowered to do so without any delay, thereby safeguarding



the fundamental rights of the arrested person as enshrined in Article 21 of the Constitution of India.

28. Before we delve into analysing the provisions of law and jurisprudential developments by this Court, we find it quintessential to discuss the impact of arrest on an individual. The arrest of an individual invariably impacts not only the person arrested himself, but also the persons associated with him, i.e. family, friends, relatives, etc., affecting their psychological balance and overall social well-being. This Court has on several occasions underscored that there is a stigma attached to arrest which impairs the reputation and the standing of an individual in society. The stigma attached to arrest undermines a person's social dignity and results into consequences that reverberate beyond the individual but also extend to their social circle.

29. The impacts of arrest are multidimensional and are not only limited to societal impact but also extend to the physical and mental health of the person. Mental health issues like depression due to custodial confinement can be aggravated by inadequate and overcrowded conditions prevalent in prisons. Such conditions severely impinge upon the fundamental rights of the arrested person and curtail his dignity and personal liberty.

30. This Court in *Arnesh Kumar v. State of Bihar*⁴, observed that arrest results in embarrassment, restricts freedom, and leaves permanent scars. Lawmakers and the police are aware of this. The police and lawmakers are at odds, and it appears that the police have not learned the lesson that is implied in and reflected in the CrPC 1973 (now BNSS 2023). Despite long years of independence, it still maintains its colonial image and is primarily viewed as an instrument of oppression and harassment, and it is undoubtedly not regarded as a friend of the public.

31. In *Joginder Kumar v. State of U.P.*⁵, this Court while framing guidelines regarding the rights of an arrested person has observed that the existence of a power to arrest and the justification to use such power are two different aspects. The person making arrest must be able to justify the arrest with reasons apart from his power to do so. Arrest of a person can cause irreversible damage to his reputation in the society as well as his self-esteem, therefore, arrest cannot be made in a routine manner. The Police Officer making an arrest must be cautious while arresting a person and ought to satisfy himself after a reasonable investigation to justify the person's complicity and also



the effect as well as the need of arrest. This Court has further observed that except in heinous offences, arrest must be avoided.

32. Having perused the jurisprudential developments and impact of arrest on a person, let us now consider the issues at hand.

33. The mandate contained in Article 22(1) of the Constitution of India is unambiguous and clear in nature, it provides that the arrested person must be informed of the grounds of arrest as soon as they can be. It further provides that the arrested person has the right to defend himself by consulting a legal practitioner of his choice. This constitutional mandate has been effectuated by the legislature in Section 50 of CrPC 1973 (now Section 47 of BNSS 2023) which provides that an arrested person shall be forthwith communicated with the grounds of his arrest.

34. The objective enshrined in Article 22(1) of the Constitution of India for furnishing grounds of arrest stems from the fundamental principle of providing opportunity to a person to allow him to defend himself from the accusations that are levelled against him leading to his arrest. The salutary purpose of informing the grounds of arrest is to enable the person to understand the basis of his arrest and engage legal counsel to challenge his arrest, remand or seek bail and/or avail of any other remedy as may be available to him/her under law.

35. It is pertinent to note that the arrested person must be given early access to legal assistance to enable him to defend himself and oppose the remand. The early access to legal counsel becomes a quintessential object to ensure that the personal liberty of the arrested person is protected. This Court in Suhas Chakma v. Union of India while emphasizing on the need of pre-litigation assistance has directed that the “Guidelines on Early Access to Justice at Pre-arrest, Arrest and Remand Stage Framework” as framed by the National Legal Services Authority, are to be diligently pursued. The guidelines provide for legal assistance to the arrested person at the stage before remand. The remand advocate shall interact with the arrestee with the objective to inform him about the allegations against him and the grounds being put by the prosecution for seeking remand. The guidelines also provide for making available the translated copy of documents to the arrested person in the language he/she understands. The purpose of securing legal assistance before remand is not merely symbolic, but it is to ensure that the accused is afforded an effective opportunity to oppose the prayer for police custody and to place before the magistrate any circumstances that may warrant refusal or limitation of such



custody. *If the accused is not represented through a Counsel, he/she should be made aware that he/she is entitled for legal aid. As far as possible, it shall be ensured that every accused person is represented by an advocate, if he is not able to avail such assistance, he should be given free legal aid. A three-judge Bench of this Court in Ashok v. State of Uttar Pradesh⁷ held that an accused who is not represented by an advocate is entitled for free legal aid at all material stages starting from remand.”*

(emphasis supplied)

15. What emerges from the above is that the legislative intent behind serving the grounds of arrest is to enable the arrested person to effectively secure legal representation and to promptly seek any appropriate legal remedies available, so that such remedies may be exercised without any delay. This requirement is designed to empower not only the arrestee but also those in a position to act on his behalf, thereby safeguarding the right to life and personal liberty guaranteed under Article 21 of the Constitution of India.

16. It was further observed by the Apex Court in the judgment of ***Mihir Rajesh Shah*** (supra) that in exceptional circumstances such as offences against body or property committed in flagrante delicto, where informing the grounds of arrest in writing on arrest is rendered impractical, it shall be sufficient for the police officer or other person making the arrest to orally convey the same to the person at the time of arrest. Later, a written copy of grounds of arrest must be supplied to the arrested person within a reasonable time and in no event later than two hours prior to production of the arrestee before the magistrate for remand proceedings. The conclusion was summed up as under:-

“56. In conclusion, it is held that:

i) The constitutional mandate of informing the arrestee the grounds of arrest is mandatory in all offences under all statutes including offences under IPC 1860 (now BNS 2023);



- ii) *The grounds of arrest must be communicated in writing to the arrestee in the language he/she understands;*
- iii) *In case(s) where, the arresting officer/person is unable to communicate the grounds of arrest in writing on or soon after arrest, it be so done orally. The said grounds be communicated in writing within a reasonable time and in any case at least two hours prior to production of the arrestee for remand proceedings before the magistrate.*
- iv) *In case of non-compliance of the above, the arrest and subsequent remand would be rendered illegal and the person will be at liberty to be set free.*

xxx xxx xxx

*58. We are cognizant that there existed no consistent or binding requirement mandating written communication of the grounds of arrest for all the offences. Holding as above, in our view, would ensure implementation of the constitutional rights provided to an arrestee as engrafted under Article 22 of the Constitution of India in an effective manner. Such clarity on obligation would avoid uncertainty in the administration of criminal justice. The ends of fairness and legal discipline therefore demand that this procedure as affirmed above shall govern arrests **henceforth.**"*

(emphasis supplied)

17. The date of decision of **Mihir Rajesh Shah** (supra) is 06.11.2025 and admittedly, the petitioner herein had been arrested much earlier i.e. on 07.02.2024 and, therefore, he cannot be permitted to raise any grievance.

18. Mr. Sanjay Lao also divulges that petitioner has tried to misrepresent that he was not aware about reason of his arrest till filing of the chargesheet. The police had sought police custody of all the three accused including petitioner herein, who had allegedly committed murder, and the prosecution version was clearly specified in remand papers also. He contends that all the three accused were duly represented by their advocates when they were produced before the concerned magisterial Court and that their advocates had even opposed grant of



‘police custody’, by contending that accused had been falsely implicated. He submits that in view of above, it is quite evident that the petitioner has not come up with complete and true facts. He also submits that the application seeking cancellation of bail of his co-accused is already pending adjudication before learned Single Judge of this Court and, therefore, petitioner cannot seek any parity, either.

19. There is one more aspect of the case. The grievance about the alleged procedural lapse has been raised very belatedly i.e. after more than one year and nine months of the arrest and there is no whisper of any prejudice being caused to the petitioner, who was represented by counsel from day one. Supreme Court in *State of Karnataka v. Sri Darshan*: 2025 SCC OnLine SC 1702 has held that while compliance of Section 50 Cr.P.C is mandatory, the consistent judicial approach has been to adopt a ‘prejudice-oriented test’ when examining alleged procedural lapses and, further held that mere absence of written grounds does not *ipso facto* render the arrest illegal, unless it results in demonstrable prejudice by denial of a fair opportunity to the accused to defend themselves.

20. In conspectus of the facts and circumstances, this Court finds that the challenge to the arrest of the petitioner fails on three counts:

- i. The law laid down in *Mihir Rajesh Shah* (*supra*), insofar as it mandates uniform written communication of grounds of arrest, operates prospectively;
- ii. The petitioner’s clear and evident contemporaneous awareness of the substance and basis of his arrest from the inception; and
- iii. Absence of any demonstrated prejudice, coupled with the



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inordinate delay in raising the grievance.

21. Consequently, we find no merit in the present petition and the same is, accordingly, dismissed.

**(VIVEK CHAUDHARY)
JUDGE**

**(MANOJ JAIN)
JUDGE**

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